

EXTRACTS FROM ADU PROVISIONS OF ZONING ORDINANCE

2-814 Affordable Dwelling Unit Advisory Board

1. The Affordable Dwelling Unit (ADU) Advisory Board shall consist of nine (9) members appointed by the Board of Supervisors. Members shall be qualified as follows:
 - A. Two members shall be either civil engineers and/or architects, each of whom shall be registered or certified with the relevant agency of the Commonwealth, or planners, all of whom shall have extensive experience in practice in Fairfax County.
 - B. One member shall be a representative of a lending institution which finances residential development in Fairfax County.
 - C. Four members shall consist of:
 - (1) A representative from the Fairfax County Department of Housing and Community Development.
 - (2) A residential builder with extensive experience in producing single family detached and attached dwelling units.
 - (3) A residential builder with extensive experience in producing multiple family dwelling units.
 - (4) A representative from either the Fairfax County Department of Environmental Management or the Office of Comprehensive Planning.
 - D. One member shall be a representative of a non-profit housing group which provides services in Fairfax County.
 - E. One member shall be a citizen of Fairfax County.
 - F. At least four members shall be employed in the private sector.
2. Each member of the ADU Advisory Board shall be appointed to serve a four-year term. Terms shall be staggered such that the initially constituted Board shall consist of four

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members appointed to four-year terms; three members appointed to three-year terms; and two members appointed to two-year terms.

3. The ADU Advisory Board shall advise the County Executive respecting the setting of the amount and terms of all sales and rental prices of affordable dwelling units.
4. The ADU Advisory Board shall be authorized to hear and make final determinations or grant requests for modifications of the requirements of the Affordable Dwelling Unit Program, except that the ADU Advisory Board shall not have the authority to modify or reduce the Affordable Dwelling Unit Adjuster required pursuant to Section 804 above or to modify the unit specifications established by the Fairfax County Redevelopment and Housing Authority pursuant to Par. 1 of Section 809 above. The ADU Advisory Board shall not have authority to hear appeals or requests for modifications of affordable dwelling unit sales or rental prices.
5. The ADU Advisory Board shall elect its Chairperson and may adopt rules and regulations regarding its formulation of a recommendation regarding the amounts and terms of sales and rental prices of affordable dwelling units and the procedures to be followed by an applicant seeking a modification of the requirements of the Affordable Dwelling Unit Program.
6. Any determination by the ADU Advisory Board shall require the affirmative vote of a majority of those present. A quorum shall consist of no less than five (5) members. All determinations and recommendations shall be rendered within ninety (90) days of receipt of a complete application.

2-815 Modifications of the Requirements of the Affordable Dwelling Unit Program

1. Requests for modifications to the requirements of the Affordable Dwelling Unit Program as applied to a given development may be submitted in writing to the ADU Advisory Board. Such application shall include an application fee as provided for in Sect. 18-106 and the applicant shall specify the precise requirement for which a modification is being sought and shall provide a description of the requested modification and justification for such request, which justification shall demonstrate in detail how such request complies with the required findings by the ADU Advisory Board as set forth in Par. 3 below and why the requirements of this Part cannot be met on the applicant's property.
2. An applicant shall promptly provide such additional information in support of the request for a modification as the Affordable Dwelling Unit Advisory Board may require.
3. In addition, in exceptional cases, instead of building the required number of affordable

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dwelling units, the ADU Advisory Board may permit an applicant to:

- A. Convey the equivalent amount of land within the development for which a modification is sought to the Fairfax County Redevelopment and Housing Authority which would be necessary to provide the required number of affordable dwelling units. In such instances, the total number of dwelling units which the applicant may build on the remainder of the site shall be reduced by the number of affordable dwelling units required pursuant to Sect. 804 above; or
- B. Contribute to the Fairfax County Housing Trust Fund and amount equivalent to the fair market value for the lot on which the affordable dwelling unit would otherwise have been constructed; or
- C. Provide any combination of affordable dwelling units, land, or contribution to the Fairfax County Housing Trust Fund.

Permitting an applicant to meet the requirements of the Affordable Dwelling unit Program by providing either land or contributions to the Fairfax County Housing Trust Fund is not favored. However, such modifications may be allowed upon demonstration by the applicant and a finding by the ADU Advisory Board that (1) the provision of all the affordable dwelling units required is physically and/or economically infeasible; (2) the overall public benefit outweighs the benefit of the applicant actually constructing affordable dwelling units on the particular site; and (3) the alternative will achieve the objective of providing a broad range of housing opportunities throughout Fairfax County.

- 4. The ADU Advisory Board shall act on requests for modifications within ninety (90) days of receipt of a complete application. The ninety (90) day time period shall be tolled during the time it takes the applicant to provide information requested pursuant to Par. 2 above.
- 5. The ADU Advisory Board may approve, deny, or may approve in part a request for a modification filed pursuant to this Section.
- 6. Persons aggrieved by the affordable dwelling unit for sale and rental prices established by the County Executive pursuant to the provisions of this Part to include decisions pursuant to Par. 2C of Sect. 807 above may appeal such prices to the Board of Supervisors. Such appeal shall be filed with the Clerk to the Board of Supervisors and shall specify the grounds upon which aggrieved and the basis upon which the applicant claims the

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established for sale or rental prices should be modified. The Board of Supervisors shall act within ninety (90) days of receipt of a complete application for appeal. An appeal to the Circuit Court is provided in Sect. 818 below.

7. The time limits set forth in Sections 15.2-2258 through 15.2-2261 of Va. Code Ann. shall be tolled during the pendency of an application filed pursuant to paragraph 1 or 7 above.

2-818 Enforcement and Court Appeals

1. The Board of Supervisors shall have all the enforcement authority provided under its Zoning and Subdivision Ordinances to enforce the provisions of the Affordable Housing Dwelling Unit Program.
2. Notwithstanding the provisions of Section 15.1-496.1 of Va. Code Ann., any person aggrieved by a decision of the ADU Advisory Board or by the Board of Supervisors in the case of a decision made by the latter regarding an appeal of affordable dwelling unit for sale and rental prices, or by any decision made by an administrative officer in the administration or enforcement of the Affordable Dwelling Unit Program, may appeal such decision to the Circuit Court for Fairfax County by filing a petition of appeal which specifies the grounds upon which aggrieved within thirty (30) days from the date of the decision.
3. Any petition of appeal properly filed pursuant to Par. 2 above shall not constitute a de novo proceeding and shall be considered by the Circuit Court in a manner similar to petitions filed pursuant to Section 15.1-497 of Va. Code Ann.

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